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EXAMINER

PERRIN, JOSEPH L

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,457

Applicant(s)

SCHULTZ ET AL.

Examiner

Joseph L. Perrin, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,19-23 and 25 is/are rejected.
- 7) ☐ Claim(s) 7,10,24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10 & 19-25, drawn to an apparatus, classified in class 134, subclass 080.
 - II. Claims 11-18, drawn to a method of washing, classified in class 134, subclass 033.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such as an apparatus without a nozzle, or can be practiced by hand.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

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6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. During a telephone conversation between Examiner Kornakov and Applicant's representative, Mr. Michael Goodwin on 04 February 2003 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-10 & 19-25.

Affirmation of this election must be made by applicant in replying to this Office action.

Claims 11-18 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Specification

9. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Beverage Can Washer with Rotary Turntable".

Claim Objections

10. Claims 7, 10 and 24 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Re claims 7 and 24, the claims are directed to the article to be cleaned and, therefore, fails to provide any further structural limitation to the claimed apparatus. Re claim 10, the claim is directed to the location of the object to be washed and, therefore, fails to provide any further structural limitation to the claimed apparatus. The type or location of the object to be washed is considered a future intended use of the claimed apparatus, which is given little patentable weight. Accordingly, these claims have not been further treated on the merits.

11. Applicant is advised that should claims 7 and 8 be found allowable, claims 24 and 25, respectively, will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

13. Claims 8 and 25 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a cover provided with curtains, does not reasonably provide enablement for a "baffle attached to said housing". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1-3, 5, 8-9, 19-22 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by US 3,942,545 to Flynn.

Flynn discloses a washer having a housing A with cover 18 and tank 34 (see entire reference, for instance, Figures 1 & 8 and associated text); the washer further having a rotatable member B having an outer peripheral surface 10 extending parallel to the rotational axis, stationary members 19,23,24,25,26 mounted to the housing, stationary members 25 and/or 26 having an arcuate profile (conduit-shaped), at least one nozzle 25 and/or 26 attached to the housing and having a spray axis, a "baffle" E attached to the housing (cover) having openings for the object to be washed to pass

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through, and at least one stationary member (for instance, member 19) extending in a direction parallel to the rotational axis (see entire reference of Flynn, for instance, Figures 1 & 4-8 and associated text, especially cols. 3-4).

It is noted that, for instance in claims 1 and 19, the attempted claim limitation directed to the location and interaction of the object to be washed is considered a future intended use and, therefore, is given little patentable weight in an apparatus claim.

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

17. Claims 1-6, 9 and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,276,374 to Wilson.

Wilson discloses a washer 10 having a housing 12 with cover 11 and tank 16 (see entire reference, for instance, Figure 1); the washer further having a rotatable member 32/132/232/332 with a plurality of detents, at least one stationary member 266 with an arcuate profile and having a surface parallel to the rotation axis (e.g. being a partition wall, which would extend vertically along the same vertical axis as the rotatable member), at least one nozzle 24/124/224/324 perpendicular to the axis of rotation (see entire reference of Wilson, for instance, Figures 1-7 and associated text).

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It is noted that, for instance in claims 1 and 19, the attempted claim limitation directed to the location and interaction of the object to be washed is considered a future intended use and, therefore, is given little patentable weight in an apparatus claim.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5,154,200 to Hall, Sr., which discloses a washer with rotary turntable, spray nozzles and spray curtain.

US 4,683,009 to Shriver, which discloses bottle drying apparatus with rotary turntable and nozzles.

US 4,420,003 to Lee *et al.*, which discloses a washer with rotary turntable, spray nozzles and baffle.

US 4,174,722 to Fleenor *et al.*, which discloses a washer with rotary turntable and spray nozzles.

US 3,886,958 to Diebel *et al.*, which discloses a washer with rotary turntable, spray nozzles and spray curtain.

US 3,878,856 to Hall, which discloses washer with rotary turntable and spray nozzles.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is

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(703)305-0626. The examiner can normally be reached on M-F 7:30-5:00, except alternate Fridays.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (703)308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

21. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

Joseph L. Perrin, Ph.D.
Examiner
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jlj
August 1, 2003


FRANKIE L. STINSON
PRIMARY EXAMINER
GROUP 3400/1700